

**GARNISHMENT PROCEDURES
FOR LITIGANTS NOT REPRESENTED BY AN ATTORNEY**

EARNINGS GARNISHMENT

EARNINGS GARNISHMENT: You must fill out your forms before filing with the Clerk of the District Court. Information you will need includes case title, case number, names and addresses of all parties (including the employer), and amount of judgment or balance due. You will need to fill out the Request for Garnishment (Form #1) and the Order of Garnishment (Form #2) and bring or mail them to the clerk's office. It may be helpful to refer to the list of terms at the end of this document.

- ✓ File with the Clerk of the District Court:

Form #1	Request for Garnishment	(1 copy)
Form #2	Order of Garnishment	(2 copies)
Form #3	Answer of Garnishee	(1 copy)
Form #4	Instructions to Garnishee	(1 copy)

The Clerk of the District Court will issue the garnishment papers to whomever you indicated on your Request for Garnishment (usually the Sheriff). The Sheriff requires a \$5.00 fee to serve the papers. The person delivering the papers to the garnishee (employer) must file a return with the Clerk of the District Court showing when and how the garnishee received the papers. The Clerk of the District Court will send a copy of the Order of Garnishment to you showing service.

- ✓ When you receive the Order of Garnishment showing that the garnishee was served, you **must** mail by first class mail to the Judgment Debtor the following document:

Form #5	Notice to Judgment Debtor and Request for Hearing
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You should receive the completed "Answer of Garnishee" from the employer within 15 days following the end of each month. The garnishee may indicate the following:

1. Judgment Debtor is not employed by garnishee
2. Judgment Debtor's employment has terminated

- ✓ If this happens, you must file with the Clerk of the District Court:

Form #6	Release of Garnishment
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Garnishee shall return to you the "Answer of Garnishee" stating the amount of money withheld. The monthly "Answer of Garnishee" and any money will be sent to you (not to the Clerk of the District Court). **This garnishment will remain in effect until the judgment is paid or until the Judgment Debtor is no longer employed by the garnishee.**

YOU MUST KEEP AN ACCOUNTING OF MONEY RECEIVED, INTEREST ACCRUED, AND BALANCE DUE. The court may require you to reproduce your record in the event that an objection is filed to the garnishment or Answer of Garnishee. A sample record of payment form is attached for your convenience. (Form #7)

- ✓ Once the judgment has been paid, you are required to file with the Clerk of the District Court:

Form #6 **Release of Garnishment**
Form #8 **Satisfaction of Judgment**

- ✓ You must also mail copies of Form # 6 to the garnishee and judgment debtor and Form # 8 to the judgment debtor.

FORM PACKET ATTACHED: The first set of forms is provided by the Court for your use. Please make copies to file with the Court and keep the originals for future use. Any additional copies will cost .25¢ per page.

Form #1 **Request for Garnishment**
Form #2 **Order of Garnishment**
Form #3 **Answer of Garnishee**
Form #4 **Instructions to Garnishee**
Form #5 **Notice to Judgment Debtor and Request for Hearing**
Form #6 **Release of Garnishment**
Form #7 **Record of Payments**
Form #8 **Satisfaction of Judgment**

Updated forms are available at <http://www.kscourts.org/council>.

TERMS:

Judgment Creditor - person to whom money is owed
Judgment Debtor - person who owes money
Litigant - person who is participating in a legal action
Clerk - Clerk of the District Court
Garnishee - employer of person who owes you money

In The District Court of _____ County, Kansas

_____,)
(Judgment Creditor name) Judgment Creditor,) Case No. _____
_____,)

Pursuant to Chapter 61 of
Kansas Statutes Annotated

Type of Service Requested: _____ by _____

REQUEST FOR GARNISHMENT
(To Attach Earnings)

The judgment creditor requests that the court issue an Order of Garnishment (To Attach Earnings) for the judgment debtor listed below in the amount of the judgment(s) shown below:

Case No	Judgment Debtor Name, Address	Garnishee's Name and Address	Judg Amount *
_____	_____	_____	\$ _____
	_____	_____	
	_____	_____	
	_____	_____	

The purpose of the Garnishment is _____.

* The judgment amount is the current balance due and may also include costs, fees, interest and any other items included in the judgment.

I hold a good faith belief that the party to be served with this garnishment order has, or will have, assets of the judgment debtor(s).

Dated: _____, _____.

Judgment Creditor Signature

This is a communication from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose

In The District Court of _____ County, Kansas

_____,)
(Judgment Creditor name) Judgment Creditor,)

_____,)
(Address))

v.)

Case No. _____

_____,)
(Judgment Debtor) Judgment Debtor,)

_____,)
(Address))

_____,)
(Judgment Debtor))

v.)

_____,)
(Garnishee name) Garnishee,)

_____,)
(Garnishee's Address))

Pursuant to Chapter 61 of
Kansas Statutes Annotated

ORDER OF GARNISHMENT
(To Attach Earnings)

To the above-named Garnishee:

The attached Instructions to Garnishee are incorporated by reference. You are ordered as a garnishee to follow the attached instructions as if they were set forth in this Order.

If you are indebted to the Judgment Debtor, complete the attached Answer under penalty of perjury as set forth in the instructions.

This order of garnishment shall have the effect of attaching the nonexempt portion of the judgment debtor's earnings for all pay periods which end while the order is in effect. The order takes effect the day it is served on you. This order of garnishment is a continuing order and shall remain in effect until the judgment against the judgment debtor has been paid or the garnishment is released, whichever occurs sooner.

This order shall also constitute an order of the court directing the garnishee to pay to the judgment creditor all earnings which are to be withheld under this order.

If you fail to complete and send your answer as required above, the judgment creditor may file a motion for judgment against you for the amount of judgment against the judgment debtor or such other amount as the court shall order, including the expenses and attorney fees of the judgment creditor. If you fail to make payment of funds as required under this order, the judgment creditor may file a motion for judgment against you for contempt or such amount as the court shall order, including the expenses and attorney fees of the judgment creditor.

Dated this ____ day of _____, ____.

Deputy
Clerk of the District Court

This is a communication from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose.

RETURN ON SERVICE OF GARNISHMENT ORDER

I hereby certify that I have served this garnishment order in the following manner:

- (1) Personal Service. By delivering a copy of the garnishment order along with two copies of the answer form to each of the following persons on the dates indicated:

_____, _____,
_____, _____
(Name) (Date)

- (2) Agent Service. By delivering a copy of the garnishment order along with two copies of the answer form to each of the following agents authorized by appointment or by law to receive service of process on the dates indicated:

_____, _____,
_____, _____
(Name) (Date)

- (3) Service by Return Receipt Delivery. By causing to be delivered on the ____ day of _____, _____, a copy of the garnishment order along with two copies of the answer form by return receipt delivery to each of the following persons at the following address: _____

with such delivery made by the following person or entity: _____.
Attached hereto is a copy of the return receipt evidencing such delivery.

(4) Return Receipt Delivery Refused. By mailing on the ____ day of _____, _____, a copy of the garnishment order along with two copies of the answer form to each of the following persons at the following address: _____

(5) Mail Service. By mailing on the ____ day of _____, _____, a copy of the garnishment order, along with two copies of the answer form by first class mail to each of the following persons at the following addresses: _____

(6) Telefacsimile communication. By faxing on the ____ day of _____, _____, at _____ o'clock __.m., a copy of the garnishment order, along with two copies of the answer form, to the following persons: _____
Number of transmitting machine: _____
Number of receiving machine: _____

(7) Internet electronic mail. By e-mailing on the ____ day of _____, _____, at ____ o'clock __.m., a copy of the garnishment order, along with a copy of the answer form, to the following persons at the following e-mail addresses: _____

Transmitting person's e-mail address: _____

(8) No Service. The following persons were not served:

Pursuant to K.S.A. 53-601, as amended, I declare under the penalty of perjury that the foregoing is true and correct.

EXECUTED on _____, _____.

Signature, Sheriff or Process Server

5. This answer covers all pay periods which end during the prior month which is as follows: month: _____, year: _____.

6. The normal pay period for employee is (designate one):
weekly _____ every two weeks _____ semi-monthly _____ monthly _____.

7. Total gross earnings due for the pay period or periods covered by this answer are:
..... \$ _____.

8. Amounts required by law to be withheld for the pay period or periods covered are:

- (1) Federal social security tax \$ _____.
- (2) Federal income tax \$ _____.
- (3) State income tax \$ _____.
- (4) Railroad Retirement Tax \$ _____.

TOTAL DEDUCTIONS \$ _____.
(Deduct only those items listed above)

9. Disposable earnings for the pay period or periods covered are: \$ _____.
(7 minus 8)

See the attached Instructions to Garnishee to determine amount of disposable earnings to be withheld.

10. I am subtracting from the disposable earnings in 9 pursuant to an income withholding order for support the amount of \$ _____.

11. I am subtracting from the disposable earnings in 9 pursuant to a lien which has priority over garnishments under the law the following amount: type of lien _____
..... \$ _____.

12. In accordance with the instructions accompanying this answer form, I have determined that the amount which may be paid to employee is \$ _____.

13. I am holding from the amount in 12 an administrative fee in the amount of .. \$ _____.

See attached Instructions to Garnishee for amount of the administrative fee that can be retained.

14. After paying to the employee the amount stated in 12 less the administrative fee in 13, and deducting any amount shown in 10 and 11, I am holding the remainder of the employee's disposable earnings in the amount of \$ _____.

15. If I do not receive an objection to this Answer within 10 days after I deliver it to all parties entitled to a copy, I will pay the amount held in 14 to the following judgment creditors:

Case No.	Name	Address	Amount
A. _____	_____	_____ _____ _____	\$ _____
B. _____	_____	_____ _____ _____	\$ _____

C. _____ \$ _____

Judgment Debtor Name & Address: _____

If more space is needed, attach separate sheet.

Pursuant to K.S.A. 53-601, as amended, I declare under the penalty of perjury that the foregoing is true and correct.

EXECUTED on _____, _____.

Garnishee

THIS COMPLETED ANSWER OF GARNISHEE MUST BE SENT TO ALL OF THE JUDGMENT CREDITORS LISTED ABOVE AND TO THE JUDGMENT DEBTOR. DO NOT SEND TO CLERK OF THE DISTRICT COURT.

INSTRUCTIONS TO GARNISHEE

(To Attach Earnings)

You must complete the Answer form which accompanies these instructions on or before the 15th day of each month. You must complete the Answer form for all pay periods which end during the prior month for that portion of the employee's earnings which is not exempt from wage garnishment. Earnings are defined as compensation for personal services, whether called wages, salary, commission, bonus or otherwise.

The garnishment order takes effect on the day it is served on you. If there is only one garnishment in effect against the judgment debtor, for the first month it is in effect, the order covers all pay periods which end on or after the day the order takes effect. For each subsequent month, the order covers all pay periods which end during each month.

The garnishment order served upon you is a continuing order and shall remain in effect until the judgment against the judgment debtor has been paid or the garnishment is released, whichever occurs sooner. As long as the garnishment order is in effect, you must complete an Answer form for each month.

More than one order of garnishment may be served on you against the same judgment debtor. If more than one order is in effect at the end of the month, you need only complete one Answer for that month, but you must send a copy of it to all judgment creditors who have garnishment orders in effect at the end of the month, and a copy to the judgment debtor (your employee). You may duplicate the Answer form in any manner you desire. You may send a copy to each judgment creditor and the judgment debtor by regular mail, fax transmission, electronic mail, personal delivery, or any other reliable delivery method.

The Answer form is provided for your convenience in furnishing the required information. It is designed so that you may prepare your answer in conjunction with the preparation of your payroll. Wait until the end of the prior month and apply the tests set forth in these instructions to the entire earnings of the employee during the month, completing your answer in accordance with these instructions. If you do not choose to use the Answer form provided, your answer, under penalty of perjury shall contain at least the same information contained on the Answer form provided.

Here are the instructions to complete the Answer form:

1. For all pay periods for the judgment debtor (your employee) which end during the prior month, complete paragraphs 5 through 9 of the form. For the first month the first garnishment is in effect, make your computations for all pay periods which end on and after the day this order takes effect. After that, make your computations for all pay periods which end during the prior month.
2. If the order of garnishment states at the top of the order that it is issued for the purpose of enforcing (1) an order of any court of bankruptcy under chapter XIII of the federal bankruptcy act or (2) a debt due for any state or federal tax, you must retain in your possession until further order of the court all of the disposable earnings for all pay periods ending during the month. If this paragraph applies, sign and date the form at the bottom and send a copy to all judgment creditors who have a garnishment in effect at the end of the month and to the judgment debtor.
3. If the order of garnishment states at the top of the order that it is issued for the purpose of enforcing an order of any court for child support or spousal support, you must retain in your possession until further order of the court 50% of the disposable earnings for all pay periods ending during the month, or such greater percentage as may be indicated in paragraph D in the table below in paragraph 7. If this paragraph applies, sign and date the form at the bottom and send a copy to all judgment creditors who have a garnishment in effect at the end of the month and to the judgment debtor.

4. If paragraphs 2 or 3 do not apply, continue to paragraph 5.
5. If you are withholding money from the judgment debtor's earnings under an income withholding order, complete paragraph 10 of the form.
6. If you are withholding money from the judgment debtor's earnings under any other lien which has priority over garnishments under the law, complete paragraph 11 of the form.
7. Compute the amount of earnings which may be withheld from the earnings of the judgment debtor (your employee) and complete paragraphs 12, 13 and 14 of the Answer form in accordance with the following table:

DISPOSABLE EARNINGS TABLE

<u>Employee paid weekly</u>		<u>Employee paid every two weeks</u>	
Disposable Earnings:	Withhold:	Disposable Earnings:	Withhold:
Less than 196.51	\$0.00	Less than 393.01	\$0.00
\$196.51 to 262.00	all over \$196.50	\$393.01 to 524.00	all over \$393.00
\$262.01 and over	25% of total disposable earnings	\$524.01 and over	25% of total disposable earnings
<u>Employee paid semimonthly (twice per month)</u>		<u>Employee paid monthly</u>	
Disposable earnings:	Withhold:	Disposable earnings:	Withhold:
Less than 425.76	\$0.00	Less than 851.51	\$0.00
\$425.76 to 567.68	all over \$425.75	\$851.51 to 1135.31	all over \$851.50
\$567.69 and over	25% of total disposable earnings	\$1135.32 and over	25% of total disposable earnings

NOTE: The numbers used in this paragraph are illustrative only and must be adjusted to comply with K.S.A. 60-725.

A. **SUPPORT ORDERS.** If the person seeking the garnishment for court ordered support desires to garnish more than 50% of disposable earnings, that person may request in writing to the clerk of the court to check one of the below applicable percentages:

- 55% Employee also supports a spouse or dependent child not covered by this support order and payments are 12 weeks overdue.
- 60% Employee does not support a spouse or dependent child and payments are not 12 weeks overdue.
- 65% Employee does not support a spouse or dependent child and payments are 12 weeks overdue.

Any disposable earnings remaining after payment of the above amounts shall be retained until further order of the court.

- B. **ADMINISTRATIVE FEE:** From income due the employee, you may withhold and retain to defray your costs an administrative fee of \$10 for each pay period for which income is withheld, not to exceed \$20 for each month for which income is withheld, whichever is less. Such administrative fee shall be in addition to the amount required to be withheld under the order for garnishment. If the addition of this fee causes the total amount withheld to exceed the amount you are to withhold pursuant to the instructions above, the fee shall be deducted from the amount withheld.

8. Complete paragraph 15 by listing the case number, name and address for all judgment creditors who have a garnishment in effect against the judgment debtor at the end of the prior month. Compute the amount to be paid to each judgment creditor. For example, if there is only one judgment creditor, pay all to that one; if there are two judgment creditors, pay each one-half (1/2); if there are three judgment creditors, pay each one-third (1/3); etc. This allocation should be followed even if some or all of the garnishments were in effect for less than the entire month.

9. Sign and date the Answer form under penalty of perjury on the line provided at the bottom of the form and deliver a copy to all judgment creditors listed in 15 and to the judgment debtor. You may deliver a copy by regular mail, fax transmission, electronic mail, personal delivery, or any other reliable delivery method.

10. If you do not receive an objection to the Answer within 10 days after you have delivered it, send a check to the judgment creditors listed in 15 for the amount due each as shown in 15.

In The District Court of _____ County, Kansas

_____,)
(Judgment Creditor name) Judgment Creditor,)

_____,)
(Address))

v.)

Case No. _____

_____,)
(Judgment Debtor) Judgment Debtor,)

_____,)
(Address))

_____,)
(Judgment Debtor))

v.)

_____,)
(Garnishee name) Garnishee,)

_____,)
(Garnishee's Address))

Pursuant to Chapter 61 of
Kansas Statutes Annotated

**TO BE DELIVERED BY THE JUDGMENT CREDITOR TO THE JUDGMENT DEBTOR IN
ANY REASONABLE MANNER IMMEDIATELY FOLLOWING SERVICE OF THE
GARNISHMENT ORDER ON THE GARNISHEE.**

NOTICE TO JUDGMENT DEBTOR
(earnings garnishment)

You are hereby notified that the court has issued an order in the above case in favor of (name and address of judgment creditor) _____, the judgment creditor in this proceeding, directing that some of your personal earnings, now in the possession of your employer, be used to satisfy some of your debt to the judgment creditor instead of being paid to you. This order was issued to enforce the judgment obtained by the judgment creditor against you in this case on _____, _____.

This order, called a garnishment order, requires your employer to withhold a certain amount from your earnings each pay period until your debt to the judgment creditor is satisfied or the order is released by the judgment creditor or set aside by the court.

The laws of Kansas and the United States provide that you have a right to be paid a certain amount of your personal earnings regardless of the claims of your creditors. In general, this amount is 75% of your earnings after federal and state taxes, social security, and any other deductions required by law are taken out. If the debt is for child support or the support of any other person, the protected amount is less, ranging from 35% to 50%. In addition, if your earnings are less than 30 times the federal minimum hourly wage for each week in the pay period, all of your earnings should be paid to you.

On each normal payday you should receive a paycheck for the amount your employer calculates you are entitled to receive by law. Your employer should furnish you with a written explanation of how the amount of your paycheck was calculated with the check.

If you believe that too much of your earnings have been withheld from your paycheck, you may request a hearing before this court.

If you were unable to work at your regular job for two weeks or more because you or a member of your family were sick, your earnings may not be garnished for two months after recovery from such illness. You do not need to ask for a hearing to assert this right if it applies to you. All you need to do is to file an affidavit with the court setting out the facts about the illness and your inability to work. If the garnishment order is not released after you file this affidavit, you may ask for a hearing.

In order to request a hearing, you should fill out the form at the bottom of this notice and obtain from the clerk of the court or the court a date and time for the hearing, and file the form with the clerk of the court at (address of court). Immediately after the request for hearing is filed, you shall hand deliver a copy of the request for hearing to the judgment creditor or judgment creditor's attorney, if judgment creditor is represented by an attorney, or mail a copy of the request for hearing to the judgment creditor or judgment creditor's attorney, if judgment creditor is represented by an attorney, by first-class mail at the judgment creditor's, or judgment creditor's attorney's, last known address. You should ask for this hearing as soon as possible, but no later than 10 days after this notice is served on you.

If you ask for a hearing, the court will hold a hearing within 10 days from the date it receives your request. At the hearing, you should present any evidence you have in support of your position. The burden is on you to prove that some or all of your property subject to the garnishment is exempt. You may wish to consult an attorney to represent you at this hearing.

(Name and address of court)

Case No. _____

REQUEST FOR HEARING

I request a hearing to dispute the judgment creditor's garnishment of my earnings because

(reason)

Name of Judgment debtor

Signature of Judgment debtor

Address

Date

City, State, Zip Code

Telephone No.

THIS PART SHALL BE COMPLETED BY CLERK OF THE DISTRICT COURT:

The hearing requested shall be held on the _____(day) day of _____(month), _____(year), at
_____(time) o'clock _____(am or pm).

CERTIFICATE OF SERVICE

I delivered a copy of the above request for hearing to the judgment creditor or judgment creditor's attorney, if the judgment creditor is represented by an attorney, by hand-delivery or first-class mail in the following manner and at the following address, on the date shown below:

(name of judgment creditor or judgment creditor's attorney)

(address of judgment creditor or judgment creditor's attorney)

(manner delivered--hand-delivery or first-class mail)

(date delivered)

Signature of Judgment Debtor

In The District Court of _____ County, Kansas

_____,)
(Judgment Creditor name) Judgment Creditor,)

_____,)
(Address))

v.)

Case No. _____

_____,)
(Judgment Debtor) Judgment Debtor,)

_____,)
(Address))

_____,)
(Judgment Debtor))

v.)

_____,)
(Garnishee name) Garnishee,)

_____,)
(Garnishee's Address))

Pursuant to Chapter 61 of
Kansas Statutes Annotated

RELEASE OF GARNISHMENT

The judgment creditor hereby releases the garnishment order issued on or about
_____ in this action.

Signature

In The District Court of _____ County, Kansas

_____,)
(Judgment Creditor name) Judgment Creditor,)

_____,)
(Address))

v.)

Case No. _____

_____,)
(Judgment Debtor) Judgment Debtor,)

_____,)
(Address))

_____,)
(Judgment Debtor))

Pursuant to Chapter 61 of
Kansas Statutes Annotated

SATISFACTION OF JUDGMENT

The judgment in this matter is hereby fully satisfied as to the following Judgment Debtor(s):

_____.

Signature of Judgment Creditor